

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

ORDER

This matter is before the court for a review of the Magistrate Judge's Report and Recommendation [Entry #25], filed on July 30, 2010, addressing Plaintiff's claims for social security disability (disability insurance benefits and supplemental security income benefits) under Titles II and XVI of the Social Security Act (the "Act"), 42 U.S.C. § 401-33, 1381-83(c). The Commissioner of the Social Security Administration ("Commissioner") affirmed the Administrative Law Judge's ("ALJ") decision that Plaintiff is not disabled within the meaning of the Act and thus not entitled to benefits. The Magistrate Judge's Report and Recommendation concludes that the ALJ's decision to deny benefits was not supported by substantial evidence and therefore recommends that the Commissioner's decision be reversed and remanded for additional administrative proceedings under sentence four of 42 U.S.C. § 405(g). More specifically, the Magistrate Judge essentially recommends that the case be remanded to the ALJ to re-examine

various medical opinions and perform a proper assessment to determine the weight to be accorded such opinions and to resolve conflicts between them, further develop the issue of Plaintiff's non-compliance with her treatment regimen, and to provide the narrative discussion and make the findings required by SSR 96-8p, 61 Fed. Reg. 34,474-01 (July 2, 1996). The Report and Recommendation sets forth the relevant facts and legal standards which this court incorporates herein without a recitation.

The Magistrate Judge's Report and Recommendation is made in accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02 for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Commissioner timely filed objections to the Magistrate Judge's Report and Recommendation [Entry # 28]. In his objections, the Commissioner relies on his previous arguments outlined in the Memorandum in Support of the Commissioner's Decision [Entry # 20]. The Commissioner also asserts that the Magistrate Judge accepted many of Plaintiff's arguments and disregarded the ALJ's analysis of the medical reports which provided substantial evidence to support his conclusion that Plaintiff is not disabled. The court finds that the Magistrate Judge performed a

thorough analysis of the record and cited to many instances in which the ALJ did not explain sufficiently his findings and conclusions from the medical sources.

After a thorough review of the Report and Recommendation and the record in this case, the court adopts the Magistrate Judge's Report and Recommendation [Entry # 25] and incorporates it herein. It is therefore **ORDERED** that the Commissioner's decision is reversed and remanded for additional administrative proceedings under sentence four of 42 U.S.C. § 405(g).

IT IS SO ORDERED.

s/ J. Michelle Childs
United States District Judge

Greenville, South Carolina
September 20, 2010